

JS 44 (Rev. 09/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DAWN KENNEDY
3861 Frankford Avenue
Philadelphia, PA 19124

(b) County of Residence of First Listed Plaintiff Philadelphia

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

WEISBERG LAW
Matthew Weisberg, Esq.
7 South Morton Ave.-Morton PA 19070

DEFENDANTS

CITY OF PHILADELPHIA d/b/a PHILADELPHIA POLICE
DEPARTMENT
1515 Arch Street, 16th Floor, Philadelphia, PA 19102-1595

County of Residence of First Listed Defendant Philadelphia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Tiffany Allen, Esq.
1515 Arch St., 16th Floor
Philadelphia, PA 19102

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Tort Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g))
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Title VII; Monell; 42 U.S.C. §1983, et seq

Brief description of cause:
race discrimination

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/22/2020

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

DAWN KENNEDY
3861 Frankford Avenue
Philadelphia, PA 19124

Plaintiff,

v.

CITY OF PHILADELPHIA d/b/a
PHILADELPHIA POLICE DEPARTMENT
1515 Arch Street, 16th Floor
Philadelphia, PA 19102 –1595

Defendant.

CIVIL ACTION

Court of Common Pleas
Philadelphia County

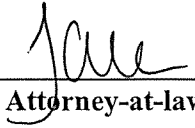
NO. 190904274

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

January 22, 2020
Date


Attorney-at-law

City of Philadelphia
Attorney for

215-683-5083
Telephone

215-683-5099
FAX Number

Tiffany.R.Allen@phila.gov
E-Mail Address

**Civil Justice Expense and Delay Reduction Plan
Section 1:03 - Assignment to a Management Track**

- (a) The clerk of court will assign cases to tracks (a) through (d) based on the initial pleading.
- (b) In all cases not appropriate for assignment by the clerk of court to tracks (a) through (d), the plaintiff shall submit to the clerk of court and serve with the complaint on all defendants a case management track designation form specifying that the plaintiff believes the case requires Standard Management or Special Management. In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.
- (c) The court may, on its own initiative or upon the request of any party, change the track assignment of any case at any time.
- (d) Nothing in this Plan is intended to abrogate or limit a judicial officer's authority in any case pending before that judicial officer, to direct pretrial and trial proceedings that are more stringent than those of the Plan and that are designed to accomplish cost and delay reduction.
- (e) Nothing in this Plan is intended to supersede Local Civil Rules 40.1 and 72.1, or the procedure for random assignment of Habeas Corpus and Social Security cases referred to magistrate judges of the court.

**SPECIAL MANAGEMENT CASE ASSIGNMENTS
(See §1.02 (e) Management Track Definitions of the
Civil Justice Expense and Delay Reduction Plan)**

Special Management cases will usually include that class of cases commonly referred to as "complex litigation" as that term has been used in the Manuals for Complex Litigation. The first manual was prepared in 1969 and the Manual for Complex Litigation Second, MCL 2d was prepared in 1985. This term is intended to include cases that present unusual problems and require extraordinary treatment. See §0.1 of the first manual. Cases may require special or intense management by the court due to one or more of the following factors: (1) large number of parties; (2) large number of claims or defenses; (3) complex factual issues; (4) large volume of evidence; (5) problems locating or preserving evidence; (6) extensive discovery; (7) exceptionally long time needed to prepare for disposition; (8) decision needed within an exceptionally short time; and (9) need to decide preliminary issues before final disposition. It may include two or more related cases. Complex litigation typically includes such cases as antitrust cases; cases involving a large number of parties or an unincorporated association of large membership; cases involving requests for injunctive relief affecting the operation of large business entities; patent cases; copyright and trademark cases; common disaster cases such as those arising from aircraft crashes or marine disasters; actions brought by individual stockholders; stockholder's derivative and stockholder's representative actions; class actions or potential class actions; and other civil (and criminal) cases involving unusual multiplicity or complexity of factual issues. See §0.22 of the first Manual for Complex Litigation and Manual for Complex Litigation Second, Chapter 33.

MAK

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

30

395

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 3861 Frankford Ave. Philadelphia, PA 19124

Address of Defendant: 1515 Arch St., 16th Floor, Philadelphia, PA 19102

Place of Accident, Incident or Transaction:

RELATED CASE, IF ANY:

Case Number: Judge: Date Terminated:

Civil cases are deemed related when Yes is answered to any of the following questions:

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 01/22/2020 Jan Must sign here 323629
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

- | | |
|-------------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> | 1. Indemnity Contract, Marine Contract, and All Other Contracts |
| <input type="checkbox"/> | 2. FELA |
| <input type="checkbox"/> | 3. Jones Act-Personal Injury |
| <input type="checkbox"/> | 4. Antitrust |
| <input type="checkbox"/> | 5. Patent |
| <input checked="" type="checkbox"/> | 6. Labor-Management Relations |
| <input type="checkbox"/> | 7. Civil Rights |
| <input type="checkbox"/> | 8. Habeas Corpus |
| <input type="checkbox"/> | 9. Securities Act(s) Cases |
| <input type="checkbox"/> | 10. Social Security Review Cases |
| <input type="checkbox"/> | 11. All other Federal Question Cases |
- (Please specify):

B. Diversity Jurisdiction Cases:

- | | |
|--------------------------|--------------------------------------------|
| <input type="checkbox"/> | 1. Insurance Contract and Other Contracts |
| <input type="checkbox"/> | 2. Airplane Personal Injury |
| <input type="checkbox"/> | 3. Assault, Defamation |
| <input type="checkbox"/> | 4. Marine Personal Injury |
| <input type="checkbox"/> | 5. Motor Vehicle Personal Injury |
| <input type="checkbox"/> | 6. Other Personal Injury (Please specify): |
| <input type="checkbox"/> | 7. Products Liability |
| <input type="checkbox"/> | 8. Products Liability - Asbestos |
| <input type="checkbox"/> | 9. All other Diversity Cases |
- (Please specify):

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Tiffany Allen, counsel of record or pro se plaintiff, do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☒ Relief other than monetary damages is sought.

DATE: 01/22/2020 Jan Must sign here if applicable 323629
Attorney-at-Law / Pro Se Plaintiff Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

JAN 23 2020

JAN 23 2020

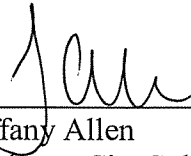
September Term, 2019
Case Id No. 04274

1

4. On December 19, 2019, Plaintiff filed a Stipulation to file Complaint on or before January 13, 2020. See Exhibit D, Plaintiff's Stipulation.
5. On January 9, 2020, Plaintiff filed their Complaint in the Court of Common Pleas of Philadelphia. See Exhibit E, Plaintiff's Complaint.
6. On January 13, 2020 said Complaint was served on Petitioner at 1515 Arch Street, 14th floor Philadelphia, Pennsylvania.
7. In her Complaint, plaintiff alleges that defendants violated her civil rights in violation of Civil Rights Act of 1964 (Title VII) and 42 U.S.C. §1983. Exhibit E, ¶¶22-27; and ¶¶30-32.
8. This action may be removed to this Court pursuant to 28 U.S.C. § 1441 because plaintiff's Complaint contains allegations of violations of her Federal Civil Rights and seeks relief under federal law. See Exhibit E.

Wherefore, Defendant, the City of Philadelphia, respectfully requests that the captioned Complaint be removed to the United States District Court for the Eastern District of Pennsylvania.

Respectfully submitted,



Tiffany Allen
Assistant City Solicitor
Attorney I.D. No. 323629
City of Philadelphia Law Department
1515 Arch Street, 16th Floor
Philadelphia, PA 19102
215-683-5083

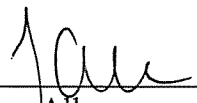
Date: January 22, 2020

September Term, 2019
Case Id No. 04274

A copy of this Notice of Removal is attached hereto and is also being filed with the Clerk of the Court of Common Pleas of Philadelphia County, pursuant to Title 28, United States Code, Section 1446(e).

Respectfully submitted,

Date: January 22, 2020

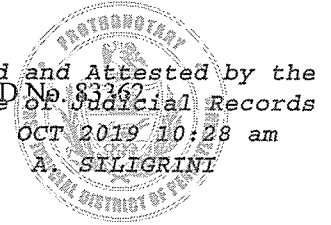


Tiffany Allen
Assistant City Solicitor
Attorney I.D. No. 323629
City of Philadelphia Law Department
1515 Arch Street, 16th Floor
Philadelphia, PA 19102
215-683-5083

Exhibit “A”

WEISBERG LAW
 Matthew B. Weisberg, Attorney ID No. 85570
 7 South Morton Ave.
 Morton, PA 19070
 610-690-0801
 Fax: 610-690-0880
Attorney for Plaintiffs

Schafkopf Law, LLC
 Gary Schafkopf, Attorney ID No. 83362
 11 Bala Ave
 Bala Cynwyd, PA 19004
 610-664-5200 Ext 104
 Fax: 888-283-1334
Attorney for Plaintiffs



DAWN KENNEDY
 3861 Frankford Avenue
 Philadelphia, PA 19124

Plaintiff,

v.

CITY OF PHILADELPHIA
d/b/a PHILADELPHIA POLICE
DEPARTMENT
 1515 Arch Street, 16th Floor
 Philadelphia, PA 19102-1595

Defendants

:
 : **PHILADELPHIA COUNTY COURT**
 : **OF COMMONS PLEAS**
 :
 : **No.**
 :
 : **JURY TRIAL OF TWELVE (12)**
 : **JURORS DEMANDED**
 :
 :
 :
 :
 :
 :

PRAECIPE TO ISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly issue a writ of summons against the Defendant in the above-captioned matter.

Respectfully Submitted,

WEISBERG LAW

BY: /s/ Matthew Weisberg
 MATTHEW B. WEISBERG, ESQ

DATED: 10-2-19

SCHAFKOPF LAW, LLC

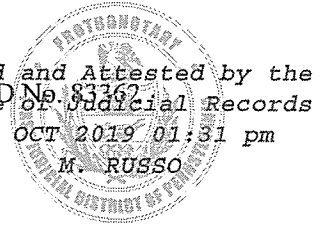
BY: /s/ Gary Schafkopf
 GARY SCHAFKOPF, ESQ.

DATED: 10-2-19

Exhibit “B”

WEISBERG LAW
 Matthew B. Weisberg, Attorney ID No. 85570
 7 South Morton Ave.
 Morton, PA 19070
 610-690-0801
 Fax: 610-690-0880
Attorney for Plaintiffs

Schafkopf Law, LLC
 Gary Schafkopf, Attorney ID No. 83362
 11 Bala Ave
 Bala Cynwyd, PA 19004
 610-664-5200 Ext 104
 Fax: 888-283-1334
Attorney for Plaintiffs



DAWN KENNEDY
 3861 Frankford Avenue
 Philadelphia, PA 19124

Plaintiff,

v.

CITY OF PHILADELPHIA
d/b/a PHILADELPHIA POLICE
DEPARTMENT
 1515 Arch Street, 16th Floor
 Philadelphia, PA 19102-1595

Defendants

**PHILADELPHIA COUNTY COURT
 OF COMMONS PLEAS**

No.

**JURY TRIAL OF TWELVE (12)
 JURORS DEMANDED**

PRAECIPE TO REISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly reissue a writ of summons against the Defendant in the above-captioned matter.

Respectfully Submitted,

WEISBERG LAW

BY: /s/ Matthew Weisberg
 MATTHEW B. WEISBERG, ESQ

DATED: 10-28-19

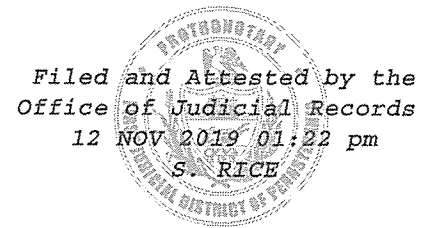
SCHAFKOPF LAW, LLC

BY: /s/ Gary Schafkopf
 GARY SCHAFKOPF, ESQ.

DATED: 10-28-19

Exhibit “C”

CITY OF PHILADELPHIA LAW DEPARTMENT
BY: TIFFANY R. ALLEN
ATTORNEY I.D. #: 323629
1515 ARCH STREET, 16TH FLOOR
PHILADELPHIA, PA 19102
TEL. 215. 683. 5083
FAX. 215. 683. 5099
Tiffany.R.Allen@phila.gov



DAWN KENNEDY,
Plaintiff,

v.

CITY OF PHILADELPHIA,
Defendant.

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

SEPTEMBER TERM 2019
No. 4274

PRAECIPE TO FILE COMPLAINT

TO THE PROTHONOTARY:

Please enter a rule upon plaintiff to file a complaint within twenty (20) days hereof or suffer an entry of a Judgment of Non Pros.

**MARCEL S. PRATT
CITY SOLICITOR**

BY: /s/ Tiffany R. Allen
TIFFANY R. ALLEN
ASSISTANT CITY SOLICITOR

AND NOW, this day of , 2019, a Rule is hereby granted upon plaintiff to file a complaint herein within twenty (20) days after service hereof or suffer the entry of Judgment of Non Pros.

PROTHONOTARY

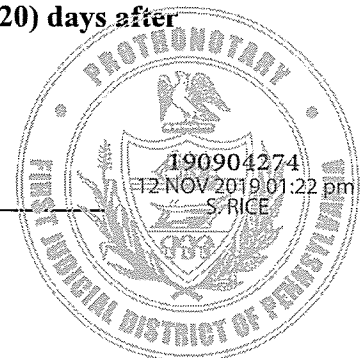
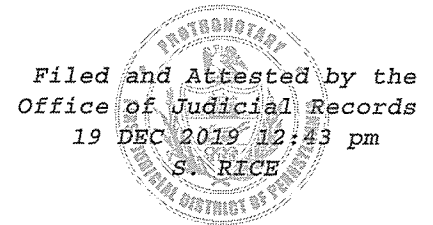


Exhibit “D”

WEISBERG LAW
 Matthew B. Weisberg
 Attorney ID #: 85570
 7 S. Morton Avenue
 Morton, PA 19070
 (610) 690-0801
 (610) 690-0880 – Fax



Attorney for Plaintiff

DAWN KENNEDY	:	COURT OF COMMONN PLEAS
	:	PHILADELPHIA COUNTY
Plaintiff,	:	
	:	September Term, 2019
v.	:	
	:	
CITY OF PHILADELPHIA d/b/a	:	NO. 4274
CITY OF PHILADELPHIA LAW	:	
DEPARTMENT	:	
	:	Jury of Twelve (12) Jurors Demanded
Defendant.	:	

STIPULATION

AND NOW, this _____ day of _____, 2019, it is hereby
 STIPULATED and AGREED, by and between all pertinent parties, by and through their
 undersigned counsel, that Plaintiff may file the Complaint on or before January 13, 2019.

WEISBERG LAW

CITY OF PHILADELPHIA LAW DEPT.

/s/ Matthew B. Weisberg
 Matthew B. Weisberg, Esquire
 Attorney for Plaintiff

/s/ Tiffany R. Allen
 Tiffany R. Allen, Esquire
 Attorney for Defendants

AND IT IS SO ORDERED.

 J.

Exhibit “E”

WEISBERG LAW

Matthew B. Weisberg, Esq.
Attorney ID No.: 85570
David A. Berlin, Esq.
Attorney ID No.: 314400
7 South Morton Ave.
Morton, PA 19070
610-690-0801
(610) 690-0880 – Fax

THIS IS A MAJOR JURY MATTER
Filed and Attested by the
ASSESSMENT OF DAMAGES REQUIRED Records

09 JAN 2020 01:20 pm

M. RUSSO

MILDENBERG LAW FIRM

Brian R. Mildenberg, Esq.
PA Attorney ID No. 84861
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Fax: 215-545-4871
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SCHAFKOPF LAW, LLC

Gary Schafkopf, Esq.
PA Attorney ID No. 83362
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Bala Cynwyd, PA 19004
610- Attorney for Plaintiffs
664-5200 Ext 104
Fax: 888-283-1334
Attorneys for Plaintiff

DAWN KENNEDY
 3861 Frankford Avenue
 Philadelphia, PA 19124

Plaintiff,

v.

CITY OF PHILADELPHIA
d/b/a PHILADELPHIA POLICE
DEPARTMENT
 1515 Arch Street, 16th Floor
 Philadelphia, PA 19102-1595

Defendants

PHILADELPHIA COUNTY COURT
OF COMMONS PLEAS

No. 190904274

JURY TRIAL OF TWELVE (12)
JURORS DEMANDED

NOTICE TO DEFEND

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas ex-puestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Philadelphia Bar Association
One Reading Center
11th & Market Streets
Philadelphia, PA 19107
215-238-6333

USTED LE DEBE TOMAR ESTE PAPEL A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE A UN ABOGADO, VA A O TELEFONEA LA OFICINA EXPUSO ABAJO. ESTA OFICINA LO PUEDE PROPORCIONAR CON INFORMATION ACERCA DE EMPLEAR A UN ABOGADO. SI USTED NO PUEDE PROPORCIONAR PARA EMPLEAR UN ABOGADO, ESTA OFICINA PUEDE SER CAPAZ DE PROPORCIONARLO CON INFORMACION ACERCA DE LAS AGENCIAS QUE PUEDEN OFRECER LOS SERVICIOS LEGALES A PERSONAS ELEGIBLES EN UN HONORARIO REDUCIDO NI NINGUN HONORARIO.

Philadelphia Bar Association
One Reading Center
11th & Market Streets
Philadelphia, PA 19107
215-238-6333

WEISBERG LAW

Matthew B. Weisberg, Esq.
Attorney ID No.: 85570
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**THIS IS A MAJOR JURY MATTER
ASSESSMENT OF DAMAGES REQUIRED**

MILDENBERG LAW FIRM

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Attorneys for Plaintiff

DAWN KENNEDY
3861 Frankford Avenue
Philadelphia, PA 19124

Plaintiff,

v.

CITY OF PHILADELPHIA
d/b/a PHILADELPHIA POLICE
DEPARTMENT
1515 Arch Street, 16th Floor
Philadelphia, PA 19102-1595

Defendants

:
:
: **PHILADELPHIA COUNTY COURT**
: **OF COMMONS PLEAS**
:
: **No. 190904274**
:
: **JURY TRIAL OF TWELVE (12)**
: **JURORS DEMANDED**
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COMPLAINT

I. Parties

1. Plaintiff, Dawn Kennedy, is an adult individual, residing at 3861 Frankford Ave., Philadelphia, PA 19124. At all times material hereto, Plaintiff was employed by Defendant as a Police Officer for over 17 years. Plaintiff has worked for the Philadelphia Police Department since October 15, 2001, until she was forced to retire on or about March 28, 2019. Plaintiff is of African American ethnicity.

2. Defendant, The Philadelphia Police Department (“PPD”) is a government agency that conducts business in the Commonwealth of Pennsylvania and is headquartered at 750 Race Street Philadelphia, PA 19106.

II. Operative Facts

3. On or about March 19, 2019, Plaintiff underwent a routine drug test for the PPD. The examiner cut hair from the back of Plaintiff’s neck with scissors to use as the sample for the drug test.

4. Plaintiff also gave a urine sample for her drug test.

5. On or about March 27, 2019, Internal Affairs arrived at Plaintiff's residence, took her weapon and notified her that her hair strand drug test came back positive for THC. Her urine test came back negative for any drugs. Plaintiff was stunned as she had never used marijuana or tested positive for marijuana use in her 17 years on the police force.

6. Plaintiff was advised by Internal Affairs that she could be pay for a retest by the city doctor the very next day (March 28, 2019) but that even if the test was negative, the results would not negate the first test. This news was disparaging to Plaintiff as she knew that she did not use marijuana.

7. Plaintiff, eager to show that she did not use marijuana, decided to go to LabCorp for an independent drug test on March 29, 2019. At LabCorp, the technician took a large chunk of hair from the middle of Plaintiff's head at the root.

8. Plaintiff's second drug test was negative for THC in both her hair and her urine.

9. Despite the negative retest, Plaintiff was told that she had only two choices: she could either be terminated immediately, or "retire".

10. Plaintiff had no choice and was forced to officially retire on or about March 29, 2019, in order to save her pension.

11. Upon information and belief and according the PPD city doctor, the amount of THC in Plaintiff's hair was so low that the mere environmental exposure of marijuana to Plaintiff could have caused the positive result.

12. Upon information and belief, discovery will show that hair sample drug tests are not reliable in determining whether an African American person is using any type of drugs. Due to environmental factors, a person can just as easily test positive for drugs if they were in contact or

in an area that had the drug. The drug particles may get trapped to a person even if they did not use the drug.

13. This is the case for African Americans because the density of their hair as well as the high levels of melanin makes it easier for substances to bind to it. African Americans have more false positive results when using hair samples for drug tests compared to Caucasians.

14. Use of hair samples for a drug test has a disparate impact on African Americans.

15. In 2014, the United States Court of Appeals, First Circuit decided a case filed by African American police officers against the Boston Police Department for their wrongful termination after testing positive for cocaine in a routine drug test. Jones v. City of Boston 752 F.3d 38 (1st Cir. 2014).

- a. The court found that the characteristics of African American hair made it more susceptible to false positives. They also believe that the statistics were skewed enough that the results could not have been from chance alone, and therefore a hair sample drug test would have a disparate impact on African Americans.
- b. The court further held that even if the Boston Police Department had proffered a legitimate business need for the drug test (to provide a drug-free work environment), there was still a question as to whether the Department failed to adopt an alternative practice that would satisfy its legitimate business need without a similarly undesirable racial effect.

16. Plaintiff filed an EEOC in June of 2019 and received her right to sue letter. (Exh. A).

17. Due to the actions of the PPD, Plaintiff was forced to retire early and was unjustly treated on a discriminatory basis, due to the disparate impact created by hair sample drug testing on African Americans.

18. Plaintiff has suffered and shall continue to suffer monetary damages and damages for mental suffering and humiliation unless and until the Court grants relief.

19. The conduct of the Defendants was part of a custom, policy and/or practice and these customs, policies or practices caused the violations of Plaintiff's rights, including as a result of failing to train and supervise. Specifically, Defendants use of hair samples for a drug test is shown to have a disparate impact on African Americans. Philadelphia Police Department has failed to adopt alternative practices without a disparate racial effect.

20. Upon information and belief, former Philadelphia Police Commissioner, Richard Ross, Jr., was the decision maker regarding the aforesaid custom, policy, and/or practice.

COUNT I
VIOLATION OF TITLE VII

21. The foregoing paragraphs are hereby incorporated herein by reference.

22. By committing the foregoing acts of discrimination against Plaintiff, Defendant has violated Title VII.

23. The aforesaid use of hair samples for a drug test by Defendant has a disparate impact on African Americans, including Plaintiff.

24. As a direct and proximate result of Defendant's violation of Title VII, Plaintiff has suffered the damages and losses set forth herein and has incurred attorneys' fees and costs.

25. Plaintiff is now suffering and will continue to suffer irreparable injury and monetary damages as a result of Defendant discriminatory acts unless and until this Court grants the relief requested herein.

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendants' improper conduct, and specifically prays that this Court grant the following relief to Plaintiff:

a) declaring the acts and practices complained of herein to be in violation of Section 1983 and Title VII;

b) Enjoining and permanently restraining the aforesaid violations;

c) entering judgment against the Defendant and in favor of Plaintiff in an amount to be determined; awarding compensatory damages to make Plaintiff whole for all lost earnings, earning capacity and benefits, past and future, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct; awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation, and loss of life's pleasures, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct; awarding punitive damages to Plaintiff;

d) awarding Plaintiff such other damages as are appropriate under Section 1983 and Title VII;

e) awarding Plaintiff, the costs of suit, expert fees and other disbursements, and reasonable attorneys' fees; and, granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

COUNT II
MONELL

26. The above paragraphs are hereby incorporated herein by reference.

27. Prior to the events described herein, Defendant failed to train, supervise, and discipline the action of its officers, exhibiting deliberate indifference to the Constitutional rights of persons, which caused violation of Plaintiff's constitutional and other rights, in violation of 42 U.S.C. § 1983.

28. Specifically, Defendants use of hair samples for a drug test is shown to have a disparate impact on African Americans. Philadelphia Police Department has failed to adopt alternative practices without a disparate racial effect.

29. Plaintiffs suffered harm due to the Defendant's conduct.

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendants' improper conduct, and specifically prays that this Court grant the following relief to Plaintiff:

f) declaring the acts and practices complained of herein to be in violation of Section 1983 and Title VII;

g) Enjoining and permanently restraining the aforesaid violations;

h) entering judgment against the Defendant and in favor of Plaintiff in an amount to be determined; awarding compensatory damages to make Plaintiff whole for all lost earnings, earning capacity and benefits, past and future, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct; awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation, and loss of life's pleasures, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct; awarding punitive damages to Plaintiff;

i) awarding Plaintiff such other damages as are appropriate under Section 1983 and Title VII;

j) awarding Plaintiff the costs of suit, expert fees and other disbursements, and reasonable attorneys' fees; and, granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

COUNT III

**42 U.S.C. § 1983, et seq., THROUGH U.S. CONSTITUTIONAL AMENDMENT XIV
(EQUAL PROTECTION)**

30. The above paragraphs are hereby incorporated herein by reference.

31. Defendants' actions stated above were committed under color of state law and were violations of Plaintiff's clearly established and well-settled Constitutional and other civil rights, as well as state law.

32. Specifically, Defendants use of hair samples for a drug test is shown to have a disparate impact on African Americans. Philadelphia Police Department has failed to adopt alternative practices without a disparate racial effect.

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendants' improper conduct, and specifically prays that this Court grant the following relief to Plaintiff:

k) declaring the acts and practices complained of herein to be in violation of Section 1983 and Title VII;

l) Enjoining and permanently restraining the aforesaid violations;

m) entering judgment against the Defendant and in favor of Plaintiff in an amount to be determined; awarding compensatory damages to make Plaintiff whole for all lost earnings, earning capacity and benefits, past and future, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct; awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation, and loss of life's pleasures, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct; awarding punitive damages to Plaintiff;

n) awarding Plaintiff such other damages as are appropriate under Section 1983 and Title

VII;

o) awarding Plaintiff the costs of suit, expert fees and other disbursements, and reasonable attorneys' fees; and, granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

JURY DEMAND

Plaintiff hereby demands a jury trial as to all issues so triable herein.

Respectfully submitted,

WEISBERG LAW

/s/ Matthew Weisberg
Matthew B. Weisberg, Esq.
PA Attorney ID No. 85570
David A. Berlin, Esq.
PA Attorney ID No. 314400
7 South Morton Ave.
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Attorney for Plaintiff

SCHAFKOPF LAW, LLC

/s/ Gary Schafkopf

Gary Schafkopf, Esq.

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Bala Cynwyd, PA 19004

610- Attorney for Plaintiffs

664-5200 Ext 104

Fax: 888-283-1334

Attorney for Plaintiff

WEISBERG LAW

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 Attorney ID No.: 85570
 David A. Berlin, Esq.
 Attorney ID No.: 314400
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 Morton, PA 19070
 610-690-0801
 (610) 690-0880 – Fax

**THIS IS A MAJOR JURY MATTER
 ASSESSMENT OF DAMAGES REQUIRED**

Attorneys for Plaintiff

DAWN KENNEDY

3861 Frankford Avenue
 Philadelphia, PA 19124

Plaintiff,

v.

CITY OF PHILADELPHIA

**d/b/a PHILADELPHIA POLICE
 DEPARTMENT**

1515 Arch Street, 16th Floor
 Philadelphia, PA 19102-1595

Defendants

:
 : **PHILADELPHIA COUNTY COURT**
 : **OF COMMONS PLEAS**
 :
 : **No. 190904274**
 :
 :
 : **JURY TRIAL OF TWELVE (12)**
 : **JURORS DEMANDED**
 :
 :
 :
 :
 :

CERTIFICATE OF SERVICE

I, David A. Berlin, Esquire, hereby certify that on this 9th day of January 2020, a true and correct copy of the foregoing Complaint was served via e-filing upon the following parties:

Tiffany R. Allen, Esq.
 City of Philadelphia Law Department
 1515 Arch Street, 16th Floor
 Philadelphia, PA 19102

WEISBERG LAW

/s/ Matthew B. Weisberg

Matthew B. Weisberg, Esquire
 David A. Berlin, Esquire
 Attorneys for Plaintiff

EXHIBIT A

EEOC Form 161-B (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Dawn Kennedy
3861 Frankford Avenue
Philadelphia, PA 19124

From: Philadelphia District Office
801 Market Street
Suite 1300
Philadelphia, PA 19107

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

530-2019-04588

Legal Unit,
Legal Technician

(215) 440-2828

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

☐

More than 180 days have passed since the filing of this charge.

☒

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

☒

The EEOC is terminating its processing of this charge.

☐

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

☐

The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.

☐

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission



Jamie R. Williamson,
District Director

7/5/2019

(Date Mailed)

Enclosures(s)

cc:

Linda Busillo
PHILADELPHIA LAW DEPARTMENT
1515 Arch Street, 16th Floor
Philadelphia, PA 19102

Lisa Claire, Esq.
MILDENBERG LAW FIRM
1735 Market Street, Ste. 3750
Philadelphia, PA 19103

Enclosure with EEOC
Form 161-B (11/18)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment; back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 – not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.